

Richard S. Taffet
Diane C. Hertz
John P. Son
BINGHAM McCUTCHEN LLP
399 Park Avenue
New York, New York 10022
Tel: (212) 705-7000

and

Bennett D. Krasner
1233 Beech Street #49
Atlantic Beach, NY 11509
Tel: (516) 889-9353

*Attorneys for Plaintiff
L & L Wings, Inc.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

L & L WINGS, INC.,

Plaintiff and Counterclaim Defendant,

-against-

MARCO-DESTIN INC., 1000 HIGHWAY
98 EAST CORP., PANAMA SURF &
SPORT, INC. AND E & T INC.,

Defendants and Counterclaim Plaintiffs.

Civil Action No. CV-07-4137
(BSJ) (GWG)

**DECLARATION OF
DAVE GRAZIADEI
RE: STORE 749**

Dave Graziadei declares as follows under 28 U.S.C. § 1746:

1. I am the sole proprietor of David Graziadei Investigations ("DGI") which is located in Bascom, Florida. DGI is a private investigative agency.
2. In or around April 2008, I was contacted by Michael Martinez of Advantage PI, Inc. ("Advantage") of Tampa, FL. Advantage retained me to visit and photograph the

establishment located at 1115 Hwy. 98 E., Destin, FL 32541 ("Store 749"). I was instructed to note the usage of any "Wings" signage inside and outside the store, and to purchase a small item and obtain the bag and receipt.

3. On April 13, 2008 at 3:16 pm, I arrived at Store 749 and observed that:

- a. the main outdoor signs displayed the name "Wings";
- b. within the store, there were hang tags attached to merchandise that also displayed the name "Wings."

4. During my visit to Store 749, I purchased a postcard for \$0.63. The receipt displayed the "Wings" name. A true and correct copy of that receipt is attached as Exhibit A.

5. The shopping bag that I received with my purchase also displayed the "Wings" name. A true and correct photograph of that shopping bag is attached as Exhibit B.

6. Attached hereto as Exhibit C is a true and correct copy of my contemporaneous report prepared at Advantage's request and upon which this Declaration is based.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 19 day of June, 2008.



DAVE GRAZIADEI

Wings 749

1115 Hwy 38 East

Destin, FL 32541

Tel: 904-666-7499 Fax: 904-666-2715

Date: 4/13/2008

Receipt #: 241720

Time: 1:21:13 PM

DROP NAME DESTIN FL

Cashier: Jada

WCH: J

ITEM#	QTY	PRICE	EXT PRICE
9155	1	\$0.59	\$0.59
1 Units)		Subtotal:	\$0.59
		6.000% tax	\$0.04
		RECEIPT TOTAL:	\$0.63
		Tend:	\$1.00
		Change:	\$0.37

Cash: \$1.00

Refunds within 7 days.

with receipt only.

Refunds within 7 days of purchase with original receipt and merchandise in original condition.

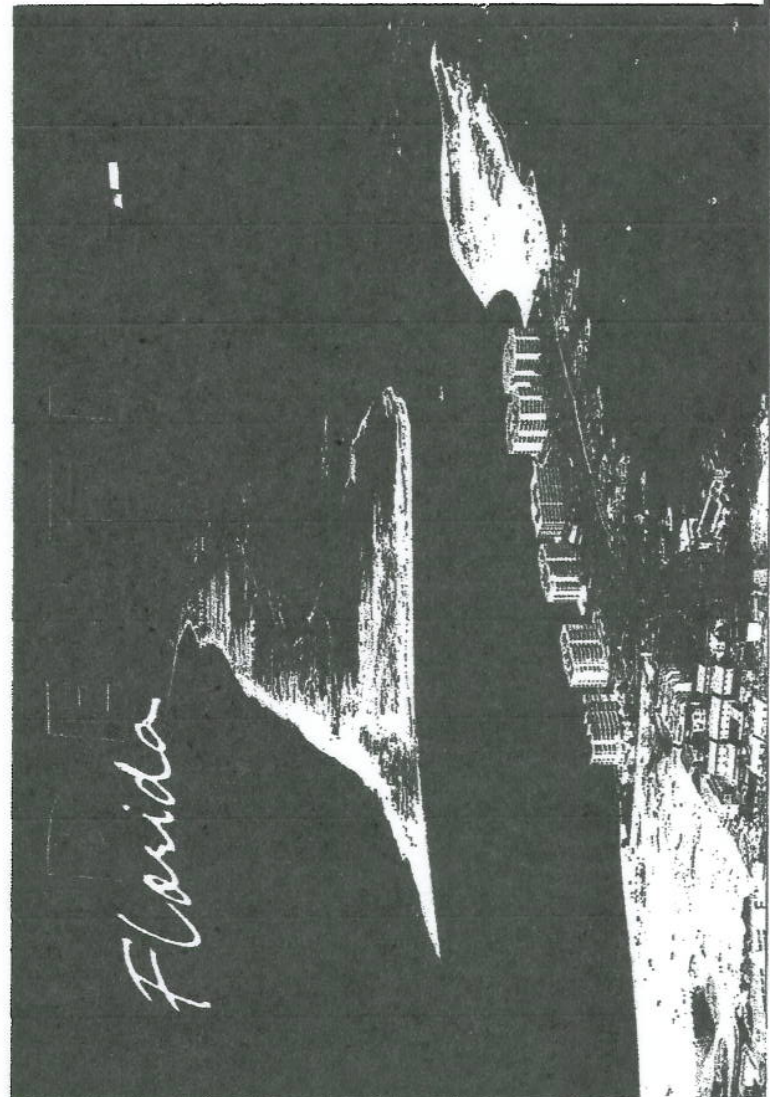
Exchanges within 30 days of purchase with original receipt and merchandise in original condition.

Cash and holiday suit sales are final.

NO RETURNS OR EXCHANGES ON BEACH ACCESSORIES



241720

**EXHIBIT A**



SOUTH CAROLINA ALABAMA FLORIDA TENNESSEE

www.marcoedestin.com

EXHIBIT B

On-Site Store Checklist

Location Address: 1115 Hwy 98 East Dossin, FL. 749

Date and Time of Visit: 11/2/08 3:26-3:27 PM

Agent Name: _____

Agent Company Name: Dave Graziadei

Agent Company Address & Telephone number: Dave Graziadei Investigations
5013 Timberlane Rd.
Bascom, FL 32423

Please complete the below 850-209-1620 ion with the "Wings" Trade dress

1. Do The Main Outdoor Signs display the name "Wings"?

Yes No

1a. If answered Yes, please take a picture of the sign and attach to the back of this document.

1b. If answered No, describe what the signs read?

2. Do any Parking Lot Signs or Parking Notice Directions display the name "Wings"?

Yes No

3. Upon entering and walking around the store, did you notice any small signs that display the name "Wings"? Please be sure to include signs on top of clothing racks, the Store Policy Notice, Store Hours Posting, signage near the dressing room and any other forms of display in your response.

Yes No

4. While walking around the store, did you notice any hang tags or product promotion stickers attached to merchandise that display the name "Wings"?

Yes No

4a. If answered Yes to the above, please describe:

MANY TAGS - WERE T-SHIRTS - TANKS - WOMEN'S SWEATSHIRTS

For the questions below, base your responses on observations gathered after purchasing an item less than \$2.00 in the store. Be sure to request an itemized receipt and shopping bag.

5. What item did you purchase and how much did it cost?

POST CARD 47¢

6. Does the receipt display the name "Wings"?

Yes No

7. Does the shopping bag you received or do any shopping bags located behind the register display the name "Wings"?

Yes No

EXHIBIT C

749

